

NEGOTIATED RULE MEETING MOTOR FUELS TAX RULES  
**DRAFT MEETING AGENDA**

The Meeting convenes on Wednesday, June 4, 2014, at 1:30 p.m. at:

Idaho State Tax Commission  
Room 1CR5 / Plaza IV / 800 Park Ave / Boise, Idaho

1:30 pm – Call to order

1. Committee Chair report

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2. Review current drafts:

- a. **Rule 110 Calculation of Tax on Gaseous Fuels.....pgs. 2-7**
  - b. **Rule 311 IFTA License Bond.....pgs. 8-11**

3. Adjourn

*For more information, please contact the Committee Chair, or the Rules Coordinator at [sherry.briscoe@tax.idaho.gov](mailto:sherry.briscoe@tax.idaho.gov) or at 208.334.7544. All agendas and rules related documents are posted on our website under the appropriate committee.*

## MOTOR FUELS TAX RULE 110 (NEGOTIATED RULE DRAFT 1)

### 110. CALCULATION OF TAX ON GASEOUS FUELS (RULE 110).

Section 63-2424, Idaho Code.

**01. In General.** ~~In all cases in which any tax under Chapter 24, Title 63, Idaho Code, must be calculated, for any special fuel that is a gaseous fuel the following equivalency formulas shall be used to calculate determine the amount of tax due.~~ A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. ~~(6-23-94) ( )~~

**a.** ~~One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid.~~ A gaseous special fuel may be sold at volumes or weights other than those listed in this section, but, must be converted to the volumes and weights used in this section for reporting purposes to ensure that the gaseous special fuels are taxed at the energy equivalent to a gallon of gasoline. ~~(6-23-94) ( )~~

**b.** ~~Four and one fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid.~~ For purposes of this section, the amounts used to determine the energy equivalent of a gallon of gasoline for the various fuels will be: ~~(6-23-94) ( )~~

**i.** 92,000 BTUs for 4.25 lbs. or a liquid gallon of propane, ~~( )~~

**ii.** 127,000 BTUs for a liquid gallon of gasoline or gasoline gallon equivalent, and ~~( )~~

**iii.** 138,400 BTUs for a liquid gallon of diesel or diesel gallon equivalent. ~~( )~~

**02. Equivalent BTU's Conversion.** ~~Special fuels The tax on gaseous special fuels will be computed based upon the equivalent BTU's per gallon of gaseous fuels. The following values will be used in a formula establishing the rate using the following methods, rounded to the nearest thousandth (0.000).÷~~

Gasoline	127,000	BTU's per gallon
Propane	92,000	BTU's per gallon
Natural Gas	100,000	BTU's per gallon

~~(Natural gas 100,000 BTU x current tax rate) = tax per therm~~

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~~Gasoline 127,000 BTU~~

~~(Propane 92,000 BTU x current tax rate) = tax per 4 1/4 pounds~~

Gasoline 127,000 BTU

(6-23-94) ( )

a. Propane. Propane is also known as liquefied petroleum gas or autogas. The tax by weight or a liquid gallon of propane is calculated as follows:

92,000 BTUs x current tax rate of a gallon of gasoline

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127,000 BTUs

( )

b. Compressed Natural Gas. The gasoline gallon equivalent for compressed natural gas is 126.67 cu. ft. or 5.66 lbs. The tax on one gasoline gallon equivalent of compressed natural gas is equal to the tax on one gallon of gasoline.

( )

c. Liquefied Natural Gas. The diesel gallon equivalent for liquefied natural gas is 6.06 lbs. The tax on one diesel gallon equivalent of liquefied natural gas is equal to 1.09 times the current tax on one gallon of gasoline.

( )

## MOTOR FUELS TAX RULE 110 (NEGOTIATED RULE DRAFT 2)

### 110. CALCULATION OF TAX ON GASEOUS FUELS (RULE 110).

Section 63-2424, Idaho Code.

The following equivalents will be used when calculating amounts of gaseous special fuel sold and corresponding tax amounts for motor fuels tax reporting purposes. Gaseous special fuel distributors are required to report the volumes and tax as required by the fuel distributor form.

<u>Motor Fuel</u>	<u>BTUs per liquid gallon</u>	<u>Tax per liquid gallon</u>	<u>Volume per Gasoline Gallon Equivalent (GGE)</u>	<u>Tax per GGE</u>	<u>Volume per Diesel Gallon Equivalent (DGE)</u>	<u>Tax per DGE</u>
<u>Gasoline</u>	<u>127,000/gallon</u>	<u>0.25¢</u>	<u>1 gallon</u>	<u>0.25¢</u>	<u>N/A</u>	<u>N/A</u>
<u>Propane</u>	<u>92,000/gallon</u>	<u>0.181¢</u>	<u>1.39 gallon</u>	<u>0.25¢</u>	<u>N/A</u>	<u>N/A</u>
<u>Compressed Natural gas (CNG)</u>	<u>N/A</u>	<u>N/A</u>	<u>126.67 cu. ft. or 5.66 lbs. @ 60<sup>0</sup> F.</u>	<u>0.25¢</u>	<u>N/A</u>	<u>N/A</u>
<u>Liquefied Natural Gas (LNG)</u>	<u>84,800/gallon</u>	<u>0.167¢</u>	<u>N/A</u>	<u>N/A</u>	<u>6.06 lbs.</u>	<u>0.273¢</u>
<u>Diesel</u>	<u>138,400/gallon</u>	<u>0.25¢</u>	<u>N/A</u>	<u>N/A</u>	<u>1 gallon</u>	<u>0.25¢</u>

( )

~~01. In General. In all cases in which any tax under Chapter 24, Title 63, Idaho Code, must be calculated, for any special fuel that is a gaseous fuel the following equivalency formulas shall be used to calculate determine the amount of tax due.~~ (6-23-94)

~~a. One (1) therm of natural gas will be the equivalent of one (1) gallon of liquid.~~

(6-23-94)

~~b. Four and one fourth (4 1/4) pounds of propane will be the equivalent of one (1) gallon of liquid.~~

~~02. Equivalent BTU's. Special fuels tax on gaseous fuels will be computed based upon the equivalent BTU's per gallon of gaseous fuels. The following values will be used in a formula establishing the rate:~~

<del>Gasoline</del>	<del>127,000</del>	<del>BTU's per gallon</del>
<del>Propane</del>	<del>92,000</del>	<del>BTU's per gallon</del>
<del>Natural Gas</del>	<del>100,000</del>	<del>BTU's per gallon</del>

~~(Natural gas 100,000 BTU x current tax rate) = tax per therm~~

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~~Gasoline 127,000 BTU~~

~~(Propane 92,000 BTU x current tax rate) = tax per 4 1/4 pounds~~

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~~Gasoline 127,000 BTU~~

~~(6-23-94)~~

**63-2424.GASEOUS FUELS.** (1) In the case of special fuels which are in a gaseous form, the commission shall provide by rule the method to be used for converting the measurement of the fuel to the equivalent of gallons for the purpose of applying tax rates. The method provided shall cause the tax rate provided in section [63-2402](#), Idaho Code, to apply to an amount of gaseous fuels having energy equal to one (1) gallon of gasoline.

(2) As an alternative to the provisions of subsection (1) of this section, an annual fee in lieu of the excise tax may be collected on a vehicle powered by gaseous fuels. The rate of the fee shall be based on the following schedule for all types of gaseous fuels as adjusted by the formula for proration set out below. The permits shall be sold by the state tax commission and gaseous fuels distributors dispensing gaseous fuels into motor vehicles.

VEHICLE TONNAGE (GVW)	FEE
0 -- 8,000	\$ 60.00
8,001 -- 16,000	\$ 89.00
16,001 -- 26,000	\$179.00
26,001 and above	\$208.00

Permits for vehicles which are converted to gaseous fuels after the first of July in any year shall have the fee prorated for the appropriate number of months until renewal. The commission shall provide by rule the method to be used for converting the measurement of fuel to the equivalent of gallons for the purpose of applying increases in tax rates after this law becomes effective. A decal issued by the commission shall be displayed in any vehicle for which a permit is issued hereunder as evidence that the annual fee has been paid in lieu of the fuel tax. This decal shall be displayed in a conspicuous place.

## State Tax Commission Negotiated Rule Making Checklist

### Determination of Feasibility of Negotiated Rule Making

#### Title and Description of rule under consideration:

110 Calculation of Tax on Gaseous Fuels *This section converts the gaseous fuels into energy equivalent amounts so that the tax may be applied at the gasoline gallon equivalent.*

Issues that may lessen feasibility of Negotiated Rule Making	Applicable Issue(s)	Explanation of Applicability of issue(s)
Requirement to comply with existing federal statute or regulation	Yes	The change for the taxable volume of CNG is required by IFTA.
Requirement to comply with existing state statute	Yes	Section 63-2424, Idaho Code. Motor fuel tax on energy equivalent of a gallon of gasoline.
Requirement to comply with controlling judicial precedent	No	
Confidentiality of issues under consideration	No	
Need for temporary rule making	No	
Simple nature of the proposed rule change	No	
Identifiable representatives of affected interests	Yes	The identifiable groups are the sellers of gaseous fuels and the purchasers of gaseous fuels for motor vehicles.
Determination that affected interests are not likely to reach a consensus on the proposed rule	No	

**DETERMINATION: THIS RULE WILL BE NEGOTIATED**

## **MOTOR FUELS TAX RULE 311 (NEGOTIATED RULE DRAFT 1, A NEW RULE)**

### **311. IFTA LICENSE BOND (RULE 311).**

Section 63-2442A, Idaho Code.

**01. General.** The state tax commission may require an International Fuel Tax Agreement (IFTA) licensee, in order to maintain their license, to post a bond following the requirements of the IFTA Agreement. An IFTA licensee may be required to post a bond when he files returns or remits taxes, separately or in combination, after the due date at least three times within a three year period. When a bond is required, the licensee must post the bond within thirty (30) days from the date of the request. When no bond is posted within the thirty (30) days, the license is automatically revoked and it must be surrendered to the state tax commission. An assessment may be made for any unreported tax liability based on actual records or an estimate. ( )

**02. Reinstating Revoked Licenses.** An applicant may be required to post a bond when he has previously had his IFTA license revoked or is related to a person who has previously had his IFTA license revoked. An applicant is related to a person who has previously had his IFTA license revoked when: ( )

**a.** The applicant is owned at least 25% by a person or persons who has previously had his IFTA license revoked. ( )

**b.** The applicant is operated or controlled by a person or persons who has previously had his IFTA license revoked. Operation and control includes, but is not limited to, an officer or director or other person authorized by the applicant to engage in the business or commercial activity of the applicant. ( )

**03. Amount and Type of Bond.** The amount of the bond will be \$1,000 or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax-paid credits. Any type of bond allowed by the IFTA Agreement or these rules may be secured. The bond amount may be reviewed at any time, but will be reviewed annually. The licensee's returns and records may be reviewed to determine if the bond amount will be raised, lowered, or remain unchanged. ( )

**04. Bond Waiver Request.** The licensee will request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee must be a quarterly filer. The licensee must have submitted the quarterly returns and paid the tax due by the due date for one calendar year. An annual filer may not request a bond waiver. ( )

**05. Denial of Bond Waiver Request and Appeal of Denial.** The state tax commission may deny a bond waiver request when it determines that waiving the bond requirement puts the financial interests of IFTA jurisdictions in jeopardy. The licensee must follow the appeal procedure in the IFTA Agreement to appeal the denial of a bond waiver request. ( )



*The authority to require a bond for IFTA licenses is from the IFTA Articles of Agreement which states, in pertinent part:*

#### **R340 BOND REQUIREMENT**

**The base jurisdiction may require a licensee to post a bond if one of the following conditions exist:**

- .100 failure to file tax returns timely or to remit taxes timely;**
- .200 when an audit indicates problems severe enough that, in the commissioner's discretion, a bond is required to protect the interests of the member jurisdictions; or**
- .300 the issuance of an IFTA license, when the applicant is seeking the license pursuant to**

#### **R325.**

**Requirements for posting of bonds are outlined in IFTA Procedures Manual Section P400.**  
(Emphasis added.)

*And the IFTA Procedures Manual which states, in pertinent part:*

#### **P410 AMOUNT OF BOND**

**The total amount of the bond shall be fixed by the base jurisdiction and shall be equivalent to at least twice the estimated average tax liability for the tax reporting period for which the licensee will be required to file a tax return.** (Emphasis added.)

#### **P420 SURETY BOND**

A licensee required to post a bond may provide a surety bond in the amount determined by the base jurisdiction.

#### **\*P430 SUBSTITUTES FOR SURETY BOND**

In lieu of a surety bond, the licensee may deposit with the base jurisdiction one of the following:

**.100 Bonds** Bonds or other obligations of the United States or Canada, the base jurisdiction, or any county or city of the base jurisdiction, having a market value not less than the bond amount required and made payable to the base jurisdiction;

**.200 Certificates of Deposit** Automatically renewable time certificates of deposit not exceeding the insured amount, issued by a bank doing business in the base jurisdiction and insured by the Federal Deposit Insurance Corporation or the Canadian Deposit Insurance Corporation, made in the name of the depositor, payable to the base jurisdiction, and containing the provision that interest earned shall be payable to the depositor and that the certificate may only be canceled by written authorization from the base jurisdiction;

**.300 Investment Certificates or Share Account** Investment certificates or share accounts not exceeding the federally insured amount, issued by a savings and loan association doing business in the base jurisdiction, and insured by the Federal Savings and Loan Insurance Corporation. Evidence of the insured account, either certificate or passbook, must be delivered to the base jurisdiction, along with a properly executed assignment form whereby the funds on deposit are assigned and made payable to the base jurisdiction;

**.400 Cash** Lawful money of the United States or Canada. Cash bonds must be submitted in the form of a cashier's check, money order, or other certified funds which are payable to the base jurisdiction; or

**.500 Other Secure Obligations** Any other secure obligations deemed appropriate by the base jurisdiction to cover the projected liabilities for all member jurisdictions.

## State Tax Commission Negotiated Rule Making Checklist

### Determination of Feasibility of Negotiated Rule Making

#### Title and Description of rule under consideration:

311 IFTA License Bond (Rule 311) *This is a new section which gives the bonding requirements for an IFTA licensee. This is allowed by the IFTA Articles of Agreement and Section 63-2442A, Idaho Code. Additional information is provided to define terms or outline procedures not covered in IFTA*

Issues that may lessen feasibility of Negotiated Rule Making	Applicable Issue(s)	Explanation of Applicability of issue(s)
Requirement to comply with existing federal statute or regulation	No	
Requirement to comply with existing state statute	Yes	Section 63-2442A and IFTA governing documents.
Requirement to comply with controlling judicial precedent	No	
Confidentiality of issues under consideration	No	
Need for temporary rule making	No	
Simple nature of the proposed rule change	No	
Identifiable representatives of affected interests	Yes	All trucking related entities and associations traveling interjurisdictionally. ITA, ATA, etc.
Determination that affected interests are not likely to reach a consensus on the proposed rule	No	

**DETERMINATION: THIS RULE WILL BE NEGOTIATED**